

EMPLOYMENT APPEALS TRIBUNAL

APPEALS OF:
EMPLOYEE – *appellant*

CASE NO.
UD263/2011
RP308/2011
MN264/2011

against

EMPLOYER – *respondent*

Under

UNFAIR DISMISSALS ACTS, 1977 TO 2007 REDUNDANCY PAYMENTS ACTS, 1967 TO 2007 MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms D. Donovan BL

Members: Mr J. Browne
Mr J. Jordan

heard this claim at Carlow on 20th March 2012

Representation:

Claimant: Ms Joanna Kwiatkowska, 2 Doirin Alainn,
Ballylynan, co. Laois

Respondent: In person

The decision of the Tribunal was as follows:-

The claim under the Unfair Dismissals Acts, 1967 to 2007 was withdrawn.

Appellant's Case

The appellant gave evidence. On the last Friday he worked, the respondent told him to sit at home for one week. There was work to do but the respondent had no money to pay him. The following Monday the respondent asked the appellant and 2 colleagues to sign on for social welfare benefits. The appellant did not want to sign on because he wanted to work. He turned away when he got to the social welfare office. The next day the appellant returned to make a claim for social welfare. He has not worked since.

Respondent's Case

The respondent gave evidence. On Tuesday 31st August 2009 he called all 8 staff members together to explain that no wages would be paid on the following Friday. Neither the appellant nor anyone else was paid on Friday 3rd September 2009. He told the appellant that he had no work for him. In fact there was plenty of work but the respondent had cash flow problems and had no money to pay the appellant. On Monday 13th September 2009 the respondent wanted the appellant and his two colleagues to sign on for social welfare because he could not guarantee their work.

Determination:

Having considered the evidence adduced at the hearing the Tribunal finds that the appellant's employment ended because the respondent was finding it difficult to pay the appellant and his other employees as a result of cash flow difficulties. The Tribunal accepts that the respondent acted in good faith but nonetheless he could not guarantee the appellant that the difficulties would be of a temporary nature. The Tribunal, therefore, finds that the appellant's employment ended as a result of a redundancy. The claim under the Redundancy Payments Acts 1967-2007 succeeds and the appellant is entitled to a lump sum payment under the said Acts, based on the following criteria:

Date of birth:	29 May 1975
Date employment began:	18 June 2006
Date employment ended:	21 September 2010
Gross weekly pay:	€622.14

It should be noted that payments from the social insurance fund are limited to a maximum of €600.00 per week.

This award is made subject to the appellant having been in insurable employment under the Social Welfare Acts during the relevant period.

The appellant was informed on 3rd September 2010 that there was no work for him. Therefore the appeal under the Minimum Notice and Terms of Employment Acts, 1973 to 2005 fails.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)